

**Minutes for the Seminole County
Board of Adjustment
April 28, 2003**

Members present: Mike Hattaway, Wes Pennington, Dan Bushrui, Lila Buchanan, and Alan Rozon

Also present: Kathy Fall, Senior Planner, Earnest McDonald, Principal Coordinator, Karen Consalo, Assistant County Attorney, and Candace Lindlaw-Hudson, Senior Staff Assistant.

The meeting was called to order by the Chairman at 6:00 P.M. The Chairman then explained the method used in conducting the meeting and how appeals were to be made.

Kathy Fall stated that items 3,5,6,8 and 13 were being removed from the Consent Agenda and were to be heard as Regular Agenda items.

Ms. Fall also noted that item 18 had been withdrawn by the applicant since they had been denied by their home owner association.

CONTINUED ITEMS FROM MARCH 24, 2003:

1. **WILLINGHAM ROAD** – Cornerstone Church of Orlando; A-5 (Rural Zoning Classification); Special exception to allow a church and attendant facilities; located on the northeast corner of Willingham Road and Old Chuluota Road (BS2003-002).
District 1 - Commissioner Maloy
Earnest McDonald, Principal Coordinator

Earnest McDonald presented some background on the application. This application is following a previous application that was denied on February 25, 2002. The current application reduces the building requirements to 7,800 square feet for a house of worship. Churches are a conditional use in the A-5 zoning district with the granting of a special exception. Staff recommendation is for approval with the findings and conditions listed in the staff report, with the added provision that the access to the site should be limited to Old Chuluota Road, rather than the access shown on the site plan submitted.

Wes Pennington asked why this was being recommended.

Mr. McDonald stated that the Old Chuluota Road access would be less detrimental to the area residents.

Steve Anderson spoke next for Cornerstone Church. He stated that little had changed with their request, other than the limiting of the request to the 7,800 foot building which would seat a little over 200 people. (The previous request had 2 phases of development planned: phase 1 had a 3,000 square foot building and phase 2 had a 12,000 square foot building.) He suggested that access would be worked out with the site planning phase of the process.

Mr. Pennington asked about the lighting on the site.

Steve Anderson said that low level box lighting had been recommended for the site.

Dr. Buchanan asked where the congregation was meeting now.

Mr. Anderson stated that the congregation was currently meeting at the Oviedo YMCA Health and Wellness Center.

Dr. Buchanan asked about the size of the congregation.

Mr. Anderson said that between 105 – 110 members typically attended each service now.

Mr. Rozon asked if the church had plans for a daycare center.

Mr. Anderson said that the church had no plans for a daycare center.

Dr. David Downs spoke next. He is the founding pastor of the church. It is a member of the Conservative Baptist Association. Dr. Downs stated that the church needs a permanent place of worship. They have no signage to let the community know they are there, and have no facilities for weddings and other congregational activities. No alcohol will be allowed on the property. After the first application was denied, Dr. Downs said the property had been put on the market. The congregation had expected that the property would be purchased by one of the neighbors who had said they wanted to buy the land. It had not been bought, so the congregation was now proceeding with their development plan.

Eric Stanley from Liberty Council of Longwood spoke on behalf of the Cornerstone Church. He spoke about new Federal and State requirements concerning churches and zoning. Two laws are at issue here. The newly enacted Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUPA) applies this application. No substantial burden can be imposed on a church unless the County shows that they have a compelling interest to oppose that application. The church has different standards for zoning consideration. Churches cannot be denied unless there can be demonstrated a compelling reason to do so and if there is any other thing that can be done instead of denial, it is up to the County to use the least restrictive means short of denial. RLUPA requires a sincerely held religious belief and purpose for making a request. The church has testified to the burden on their ministry. The burden then shifts to the County to demonstrate why they should be denied. Mr. Stanley said that this is more than just the normal competent, substantial evidence for adverse public effect. It is the highest order to protect the constitutional rights of churches. Mr. Stanley found no compelling interest in this case for denial. From the review of the records of the last application of 2002, there is no compelling testimony. Staff has recommended approval. That requirement therefore cannot therefore be met. The second RLUPA requirement is that a church cannot be treated on less than equal terms with other secular assembly uses. This requirement looks at Seminole County code for churches and secular uses and asks if the requirements are the same or different. In A-5 zoning in section 30.102K of the LDC public elementary schools are a permitted use. This is a secular assembly use. It is treated differently from a religious assembly use, which is conditional, with a special exception. This is giving a preferential use to a school. You can eliminate the difference by granting the special exception.

Mr. Stanley also mentioned the Florida Religious freedom Restoration act, which mirrors terms of the RLUPA. There has been demonstrated a sincere desire and need to have the church. A compelling burden would be placed on the church if denied. There was no compelling evidence that the church was inconsistent with trends of development or detrimental to the character of the neighborhood. Its effect on area traffic patterns is negligible. Mr. Stanley concluded by urging the Board to approve the request.

Mr. Rozon asked why the church did not appeal the first denial.

Mr. Stanley stated that he was only recently hired by the church and did not know why there had been no appeal.

Mr. Lee McKeecham of Southern Cross Properties said that his wife represented Ben Carmichael when the area was platted. Mr. Carmichael has always stipulated that a country church be placed on this site. Mr. McKeecham is a third generation resident of Oviedo and knows the area well. He said that he feels the church will be a benefit to the community.

Tate Nelson of 400 E. Willingham Road spoke next. He has a 20 year background in civil engineering and geology. He has worked on road engineering projects and knows about drainage. He showed several pictures of rural Oviedo. Mr. Nelson stated that his concern was about the development impinging on the area. Mr. Nelson stated that the church is showing the same plan, minus the large building. The fill in the area is changing the water flow in the immediate neighborhood. Old Chuluota Road is a dirt path. It floods badly. He submitted a map with an area marked in red to indicate a flood area. All of the County engineers who have visited the site have said that this site is unbuildable. Approximately 2.5 to 3 acres of the site will be usable. The plan submitted does not show enough storm water retention. The site plan does not reflect enough parking. The area roads are substandard. The site cannot sustain a 7,800 square foot building. Parking for 225 church members will require 2.5 acres. Add that to the area needed for storm water retention and the lot is unbuildable. Raising the site for the building is not good. The group is not a small organization. The site is too small for its plans.

Ted Reichle of 350 Willingham lives one lot from the site. He said that road paving in the area had interfered with the water movement in the area. He had County engineers take test borings. There is no hard pan in the area. Across the street from the site of the church is a proposed site of an Albertson's plaza.

Vicky Nelson of 400 Willingham Road opposed the project saying that this is a heavily wooded area that has a lot of traffic on weekends from the residents. There are 6 churches within a 2 mile radius of this site. When they applied previously the pastor said that the church would go elsewhere if denied.

Monica Williamson is the owner of 25 acres on Snow Hill Road. She lives on Willingham Road adjacent to the site. She showed pictures of a bank and a McDonald's which together would equal the size of the proposed church development. She said that according to the church's website their goal is expansion. They want 500 members with a school and a counseling center for drug addicts. There is a severe water problem in the area. There are swales in the area. The county has allotted 55 thousand dollars for an engineering study of the area. If the area is raised up, it will further

contribute to flooding. The members of the congregation are from outside of the area. This project will increase traffic to her rural area. One of the things the website says the church will be planning for the future is a school from K to seminary grade.

Brenda Reichle stated that she wanted to buy this land for a retention pond prior to the church closing on the property. Tim Hatten was selling her the land and Mr. Carmichael told her the land was going to be commercial, not for a country church.

Deb Shaefer of the Southeast Seminole County Voters Association said that there was a pending proposal concerning growth in the area. Commercial design standards limit growth to 5,000 square feet in Chuluota. This is not about the church. It is about limiting development. The place is not meant to have an entity this large. She is not against churches, she is against the size. She asked that the request be denied. Growth should be limited. If approved, she asked that the project have explicit restrictions on the development. The design should be rural in character.

David Ryan-Jones of 375 Willingham said that there are plenty of lots in Chuluota along major roads for the placement of churches. This is a residential area. Old Chuluota Road is torn up for more than a year. It is an R-5 residential area. On the website they say they have 450 members. They say they will have a K – 12 school. They will also have an outreach center for unwed mothers and the homeless. They will be operating on hours that will disturb the area.

Gary Smithson of 1505 Willingham is a retired engineer and firefighter. He stated that growth is coming to the area. When the road was raised and paved, it created flooding. Horses in the area are being impacted. Willingham is becoming a cut-through street. There is a 90 degree curve in the road and 5 wildlife crossings in this area. There are many displaced wild life species here also. He asked that the request be denied. He stated that this is not about a church. It is about what would be appropriate for the area.

Robert Williamson of 475 Willingham owns 25 acres on Snow Hill Road and has the parcel 3 lots down for this site of the request. He showed an aerial photo of the area. Old Chuluota Road is now a drainage ditch. No one is against religion. He was at the meeting to protect the wild life and his property. He asked that the flooding please be considered. This is an unnecessary burden to the tax payers.

Mr. Steve Anderson spoke in rebuttal. He said that stormwater issues would be dealt with at the time of site plan approval. This property is not unbuildable. The 225 members of his church will require 94 spots. Mr. Anderson stated that the congregation had looked around for a number of months for a new site and finally came back and bought the property.

Mr. Anderson showed that the property is on the corner of 419 and Willingham. Traffic is not an issue and storm water issues will be addressed by the County at the time of site plan approval. The church has a long term vision. This is our starter property.

Mr. Bushrui said that what had been submitted as a site plan was conceptual.
Mr. Anderson agreed.

Mr. Stanley stated that section 30.102 restated his observation that public elementary schools are a permitted use in this zoning. This church should be also.

Dr. Buchanan stated that there was a serious flooding problem, and that no matter what goes in on this site, that problem will not be going away. This is far from being solved.

Mr. Pennington questioned whether it was the Board's responsibility to identify the problem.

Dr. Buchanan said that the problem exists.

Mr. Pennington stated that the applicant would have to meet with the County regulations.

Mr. Hattaway stated that the Board was considering if it is suitable for a church of 7,800 square feet.

Mr. Rozon stated that we must consider the regional impact of all of the development.

Dr. Buchanan stated that if this is passed, we will have to put constraints on future growth.

Mr. Hattaway stated that the Board must ask if this is a good location for a church.

Karen Consalo reiterated what the Eric Stanley had said earlier about the burden of deniability being on the County's shoulders.

Mr. Bushrui said that the Board still has to apply the 7 elements from the LDC.

Ms. Consalo stated that the federal law steps in if the Board were going to deny, to make the County show a compelling reason for denial.

Mr. Hattaway said that the Board was not doing a rezone; it was looking at the use and the size of the use.

Dr. Buchanan stated that the Board has to show significant reasons for denial. These cannot be neighbor's objections.

Ms. Consalo agreed. The reasons cannot be the "not in my backyard" kind of objection.

Mr. Hattaway stated that the staff recommendation was for approval. When the Board has questions, County engineers can be consulted.

Dr. Buchanan stated that the Board did not have traffic evidence for Willingham Road.

Mr. Pennington stated that such questions would be dealt with at the time of site plan approval.

Mr. Hattaway said that the Board has a right to ask for further studies of traffic.

Mr. Bushrui agreed and said that the Board does not have enough information under the circumstances.

Dr. Buchanan made a motion to approve the granting of the special exception according to the site plan and terms of the development order.

Mr. Pennington seconded.

Mr. Rozon stated that he would vote against the motion. He does not have enough information.

Mr. Bushrui stated that he was also voting against the motion.

The vote was 3 – 2 against the motion. The motion failed. Mr. Hattaway, Mr. Bushrui, and Mr. Rozon had voted “no.”

Mr. Rozon made a motion to continue this item to the next meeting and said that he wanted information on Oviedo annexation and any and all information that could be imparted to this case.

Mr. Bushrui seconded the motion.

Mr. McDonald stated that staff will have specialists present to answer questions of the Board at the next meeting.

The vote was 4 – 1 in support of the motion. Mr. Pennington voted “nay.” The request is continued until next month.

Mr. Hattaway stated that the public hearing portion of this item is closed. Next month there will be staff input only.

- 2. 703 LAUREL WAY** – Joyce Santee; PUD (Planned Unit Development District); Rear yard setback variance from 25 feet to 20 feet for the replacement of an existing screen room with an addition; located on the south side of Laurel Way, approximately 187 feet east of the Laurel Way and Brittany Drive intersection (BV2003-009).

District 1 – Commissioner Morris

Earnest McDonald, Principal Coordinator

Earnest McDonald stated that staff recommendation was for denial. The home could have been setback another 4 feet on the rear lot line, closer to the front property line. It has been placed 24 feet back from the street, creating a hardship.

Joyce Santee of 703 Laurel Way stated that she had a petition signed by 3 neighbors showing that they had no objection to her request. She wants a game room and needs 5 feet. Ms. Santee stated that she has owned the house for 4 years and did not build the house.

Mr. Pennington made a motion to approve the granting of the variance.

Dr. Buchanan seconded the motion.

The motion passed unanimously. (5 – 0)

Mr. Hattaway explained the procedure for the consent agenda. He asked if anyone from the audience wanted to have any of the consent agenda items moved from the consent portion to the regular portion of the agenda.

Terry Delong wanted item 14 removed to the regular agenda.

Mr. McDonald stated that the applicant has requested a continuance on item 8 (180 Hickman Drive.)

Mr. Bushrui made a motion to continue item 8 (180 Hickman Drive) to the May meeting.

Mr. Rozon seconded the motion.

The motion passed by unanimous vote.

Mr. Hattaway then restated that items 3, 5, 6, 13, and 14 had been requested to be removed from the Consent Agenda to be heard with the Regular Agenda.

Mr. Rozon made a motion to remove items 3, 5, 6, 13, and 14 from the Consent Agenda and hear them as regular items.

Mr. Pennington seconded the motion.

The motion passed unanimously.

Dr. Buchanan made a motion to approve the variances for Consent Agenda items 4, 7, 9, 10, 11, 12, 15, and 16.

Mr. Pennington seconded the motion.

The motion passed unanimously.

CONSENT AGENDA:

Items 3, 5, 6, 8, 13, and 14 were removed from this part of the agenda and heard on the Regular Agenda.

- 3. 2270 POINSETTIA DRIVE** - William & Nancy Shrock; R-1AA (Single-Family Dwelling District); Rear yard setback variance from 30 feet to 5 feet for a proposed two story garage; located on the north side Poinsettia Drive, approximately 176 feet east of the West Lake Brantley Road and Poinsettia Drive Intersection (BV2003-024)

District 3 - Commissioner Van Der Weide

Earnest McDonald, Principal Coordinator

This item was moved to the regular portion of the agenda.

Mr. McDonald stated that the 20 foot by 40 foot garage is a reasonable use of the property, but the 2 story, 2 car garage is not in keeping with the neighborhood. He recommended that the building height be reduced to a one story, one car size, consistent with the trend of development in the area.

Robert Clark spoke for the Shrocks. He stated that there was a line of mature oaks that shields the rear property line. A one car garage is not in keeping with the rest of the neighborhood. The property is on the corner of West Lake Brantley Road and Sand Lake Road. Mr. Clark questioned why Mr. McDonald had changed his recommendation.

Mr. McDonald stated that he had scrutinized the site after receiving objections from several area residents.

Mr. Clark said that the application was made on February 12, and that this was the first time he had heard of any objections.

Randall Clark of 2140 West Lake Brantley Road said that there were similar garages on 2141 Camelia and another garage next to his property. There were others around also.

Bruce Baider of 202 Green Lake Circle in Sweetwater Oaks said the the house was built years ago. The garage will negatively impact the property. The second story was a problem. It will negatively impact his property. He asked to limit the size of the garage.

**Dr. Buchanan made a motion to continue this to the May 19th meeting.
Mr. Bushrui seconded the motion.**

Mr. Hattaway noted his concerns: 5 feet is too close, 2 stories is too high, and he was concerned about the surface area ratio on the project.

Mr. Bushrui asked Mr. McDonald what he would recommend.

Mr. McDonald said that the applicant could have other designs. This is not the least variance that could be granted.

The motion to continue was unanimously passed.

4. **1048 BEE LANE** - Kevin Hepler; Special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District) located on the west side of Bee Lane, approximately 0.6 mile from the Bee Lane and the east Osceola Road Intersection. (BM2003-002)

District 2 – Commissioner Morris
Earnest McDonald, Principal Coordinator

5. **101 MAID OF THE MIST DRIVE** - Nancy Beltran; R-1A (Single-Family Dwelling District); Rear yard setback variance from 30 feet to 18.9 feet for a room addition; located on the east side of Maid of the Mist Drive, approximately 0.3 mile east of the Oxford Road and Maid of the Mist Drive (BV2003-030)

District 4 – Commissioner Henley
Earnest McDonald, Principal Coordinator

This item was moved to the regular portion of the agenda.

Mr. McDonald stated that staff has changed its opinion. Staff now believes that a closed wall addition could be added to the front of the property. The variance would not be necessary.

Wayne Roberts of Roberts Homes spoke for the applicant. He stated that the proposed addition was for 2 bedrooms and a screen room.

No one spoke from the audience concerning the application.

Dr. Buchanan noted that there was a 100 foot drainage easement in the rear of the property.

Dr. Buchanan made a motion to approve the granting of the variance.

Mr. Pennington seconded the motion.

The motion passed by unanimous vote.

- 6. 315 LAZY ACRES LANE**– Peter Wales; A-1 (Agriculture District); Front yard setback variance from 100 feet to 23 feet for a detached accessory structure; located on the south side of Lazy Acres Lane, approximately 0.2 mile east of the Lake Emma Drive and Lazy Acre Lane intersection (BV2003-033)

District 4 - Commissioner Henley
Ernest McDonald, Principal Coordinator

This item was moved to the regular portion of the agenda.

Mr. McDonald stated the garage was constructed without permits. The property has a Code Enforcement violation it. The accessory building is existing.

Mr. Well stated that he put the storage building up for his car and for storage of farm equipment. The small building houses a well pump. If the garage were built elsewhere, it will make the barn flood.

Tom Alderson of 337 Lazy Acres Lane spoke in support. He lives next door to the site of the variance. The current structures are attractively landscaped. If they were placed further back, they would be within the flood prone area.

Mr. Rozon made a motion to approve the granting of the variance.

Mr. Bushrui seconded the motion.

The motion passed by unanimous approval.

- 7. 1895 MULLET LAKE PARK** - Donald & Susan Brown; Special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District); located on the

east side of Mullet Lake Park Road, approximately 432 feet south of the Bass Boulevard and Mullet Lake Road intersection (BM2003-001)

District 5 – Commissioner McLain

Earnest McDonald, Principal Coordinator

- 8. 180 HICKMAN DRIVE** – Thomas Sign & Awning Company; C-2 (Retail Commercial District); Ground sign height variance from 15 feet to 50 feet; located on the west side of Hickman Drive, approximately 0.1 mile north of the State Road 46 and Hickman Drive intersection (BV2003-029).

District 5 – Commissioner McLain

Earnest McDonald, Principal Coordinator

This item was continued to the May meeting. (Motion noted above.)

- 9. 1775 SOUTH U.S. HIGHWAY 17-92** - Charlotte M. Green; Special Exception to allow an auto repair shop in the C-2 (Retail Commercial District); located on the east side of U.S. Highway 17-92, approximately 0.1 mile south of the Lake Kathryn Road and U.S. 17-92 intersection (BS2003-006).

District 2 – Commissioner Morris

Earnest McDonald, Principal Coordinator

- 10. DOLARWAY (LOT 227)** - Emma Smith; R-1 (Single-Family Dwelling District); (1) Lot width at the building line variance from 70 feet to 40 feet; (2) Lot size variance from 8,400 square feet to 4,160 square feet and (3) Side yard setback variance from 7.5 feet to 4 feet for a proposed home; located on the east side of Dolarway, approximately 0.2 mile North of the east State Road 46 and Dolarway intersection (BV2003-037).

District 5 - Commissioner McLain

Kathy Fall, Senior Planner

- 11. 111 HIGHLAND COURT** – Peter Bowers; R-1A (Single-Family Dwelling District); Rear yard setback variance from 30 feet to 12 feet for a covered screen enclosure; located on the south side of Highland Court, approximately 0.1 mile east of the Rantoul Lane and Highland Court intersection (BV2003-026).

District 5 – Commissioner McLain

Kathy Fall, Senior Planner

- 12. 5009 OLD HOWELL BRANCH RD-** Subhash Patel; C-2 (Retail Commercial District); Special exception for a package liquor store; located on the east side of Old Howell Branch Road, approximately 80 feet north of the Old Howell Branch Road and State Road 426 (BS2003-005).

District 1 – Commissioner Maloy

Kathy Fall, Senior Planner

- 13. 576 STILLWATER DRIVE** - Mustapha Mouloua; R-1AA (Single-Family Dwelling District); Side yard setback variance from 10 feet to 5 feet for pool screen enclosure; located on the east side

of Stillwater Drive, approximately 0.7 mile southwest of the Alafaya Trail and Stillwater Drive intersection (BV2003-032).

District 1 - Commissioner Maloy

Kathy Fall, Senior Planner

This item was removed from the consent agenda and heard with the regular agenda items.

Kathy Fall stated that staff recommendation was for approval of the pool enclosure for the footprint of the existing cool deck. This is the minimum variance. The applicant wants more cool deck.

No one spoke from the floor concerning the application.

Dr. Buchanan stated that no one lives behind the site of the variance.

Dr. Buchanan made a motion to approve the granting of the variance.

Mr. Bushrui seconded the motion.

The motion passed by unanimous vote.

14. 1675 TUSCAWILLA ROAD – David F. Lloyd; A-1 (Agriculture District); Special exception to allow a kennel for the lodging of approximately 60 dogs in a 6,000 square feet building; located on the east side of Tuskawilla Road, approximately 180 feet north of the Tuskawilla Road and Dike Road intersection (BS2003-003).

District 1 - Commissioner Maloy

Kathy Fall, Senior Planner

Kathy Fall stated that this use was allowable in the zoning classification. Ms. Fall read the conditions from her staff report that she placed on the project which included: no more than 60 dogs allowed, no outside kennels allowed, construction must be of sound-proofing materials, hours of operation restricted to 8 A.M. to 6 P.M., Monday through Friday, a 6-foot wall to be placed on the east side of the property for buffering, and there is to be an on-site waste disposal system.

Pat Begley of Old Carriage Trail, is the treasurer for the Stonehurst Subdivision HOA. His property is 500 feet from the site of the request. He stated that most of the surrounding properties are residential in nature, not office. When this property was rezoned, the context was for a doctor's office or business office. A kennel will make noise. Having it next door to a school is a safety issue. If the kennel goes in, what type of professional office building will want to go in next to it?

Mr. Hattaway stated that this was an administrative change from LDR – Low Density Residential to Office on future land use. The property was not rezoned.

Kathy Fall said that A-1 (Agriculture) is allowed in office future land use. Kennels are a conditional use in the office future land use designation.

Tom Philips, owner of the Tuscawilla Montessori School, said that if this was an agricultural use it would have to be 100 feet back from a residence. The school should be separated too.

Lois Philips stated that students are from 3 years old to 8th grade. When they are outside, they are near the boundary of the property.

Nadine Jackson lives in Cardinal Creek subdivision. She stated that the trend of development in the area was for single family homes. This would not be a wise use of the land.

In rebuttal, the applicant stated that plans for the kennel were given in before the change in land use. The staff report with its conditions was accepted by Mr. Lloyd, with a solid concrete wall to be placed in the rear and wood fences to be placed on the sides. Dogs will be walked twice a day for 5 minutes at a time.

Mr. Bushrui stated that he could not see putting a dog kennel next to a school.

Mr. Bushrui made a motion to deny the granting of the request.

Mr. Pennington seconded the motion.

Mr. Hattaway stated that this use was too intense for this area.

The motion to deny was unanimously passed. (5 – 0)

15.1217 TRINITY WOODS LANE - Richard T. McCree; R-1 (Single-Family Dwelling District) Special exception for the expansion and renovation of an existing church; located on the northeast corner of I-4 and Wymore Road. (BS2003-007).

District 1 – Commissioner Maloy

Kathy Fall, Senior Planner

The Chairman stated that he will abstain from voting on this item.

16. 3340 EAST SEMORAN BOULEVARD - Ikemoto Masahiko; Special exception to allow incidental alcohol sales in a bona fide restaurant located within 1,200 feet of a school in the OP (Office Professional District) and C-2 (Retail Commercial District); located on the south side of State Road 436, approximately 0.10 mile east of the Hunt Club Road and State Road 436 intersection (BS2003-010).

District 3 - Commissioner Van Der Weide

Earnest McDonald, Principal Coordinator

REGULAR AGENDA:

17.321 SALINA DRIVE - Yvonne Ann Roux; R-1 (Single-Family Dwelling District); Rear yard setback variance from 30 feet to 6 feet for an existing accessory building; located on the east side of Salina Drive, approximately 0.17 miles north of the Merritt Street and Salina Drive intersection (BV2003-034).

District 4 – Commissioner Henley

Earnest McDonald, Principal Coordinator

Mr. McDonald stated that the staff recommendation was for denial of the request. There are ample opportunities to put the building elsewhere.

Ms. Roux presented a petition from her neighbors stating that they had no objection to the project.

Mr. Bushrui asked about the property behind this parcel.

Ms. Roux said that the property behind her was woodland.

Mr. McDonald stated that the parcel adjacent to the rear was zoned R-1 (Single family residential).

Dr. Buchanan stated that she disliked having to rule on a structure already in existence that was not put up in compliance with the codes.

Mr. Pennington made a motion to approve the granting of the variance.

Mr. Bushrui seconded the motion.

The motion passed with unanimous approval.

18.437 MORNING GLORY DRIVE - Carmen I. Montero; PUD (Planned Unit Development District); Rear yard setback variance from 15 feet to 7.5 feet for a room addition located north of the Morning Glory Drive and Woodlark Way intersection (BV2003-031).

District 4 - Commissioner Henley

Kathy Fall, Senior Planner

This item was withdrawn from consideration by the applicant.

19.2051 WESTBOURNE DRIVE - Gregory Dean Boatright; PUD (Planned Unit Development District); Rear yard setback variance from 10 feet to 6.5 feet for a pool; located on the south side of Westbourne Drive, approximately 0.3 mile east of the Lockwood Boulevard and Westbourne Drive intersection (BV2003-039).

District 1 - Commissioner Maloy

Kathy Fall, Senior Planner

Kathy Fall stated that staff does not recommend the granting of the variance since it does not meet the criteria for the granting of a variance as stated in the Land Development Code (LDC) of Seminole County. The screen enclosure is all right, but the pool water edge is supposed to be 10 feet, and is 6.5 feet.

Mrs. Boatright presented 4 letters from neighbors, saying that they had no objection to the request. No one lives behind. She needs the variance due to the placement of the house on the lot.

Dr. Buchanan made a motion to approve the granting of the variance.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent.

20.129 RED CEDAR DRIVE – Barbara Walter; PUD (Planned Unit Development District); Rear yard setback variance from 15 feet to 0 feet for an addition; located on the west side of Red

Cedar Drive, approximately 53 feet north of the Springs Boulevard and Red Cedar Drive intersection (BV2003-028).

District 3 – Commissioner Van Der Weide

Kathy Fall, Senior Planner

Kathy Fall stated that staff does not recommend the granting of the variance since it does not meet the criteria for the granting of a variance as stated in the Land Development Code (LDC) of Seminole County.

Barbara Walter stated that she has lived in the house since 1977. There is a green belt behind her fence. This addition will house her mother or the mother's caretaker. She had a petition from her neighbors and the approval of her area ARB (architectural review board). The ARB asked that the roof be replaced while doing the project.

Mr. Hattaway asked that notation be made that the variances are to be (if granted) only for the project as shown on the request and plan.

Mr. Rozon made the motion to approve the granting of the request, consistent with the recommendation of the ARB in the neighborhood.

Dr. Buchanan seconded the motion.

The motion passed with unanimous approval.

21.1509 LANGHAM TERRACE - Mark & Cathy Postle; PUD (Planned Unit Development District); (1) Side yard setback variance from 10 feet to 3 feet for proposed pool; and (2) Side yard variance from 7.5 to 3 feet for proposed screen enclosure; located on the northeastern corner of the Langham Terrace and Westbury Way intersection (BV2003-027).

District 5 - Commissioner McLain

Kathy Fall, Senior Planner

Kathy Fall stated that staff does not recommend the granting of the variance since it does not meet the criteria for the granting of a variance as stated in the Land Development Code (LDC) of Seminole County. Ms. Fall stated that the house is still under construction; it is on a corner lot and has 2 sides. The screen enclosure and pool require variances. There is no walking space by the pool's water edge.

Mark Postle said that there is a brick wall around the property on 2 sides. He has a petition from 2 neighbors (directly behind and beside) who do not object to the project. The wall will be 6 feet from the water's edge.

Mr. Rozon made a motion to approve the variance, consistent with the ARB recommendation.

Mr. Bushrui seconded the motion.

The motion passed with unanimous approval.

22.321 EAST HIGHLAND STREET - Donna Horowitz; R-1AA (Single-Family Dwelling District); (1) Rear yard setback variance from 30 feet to 3 feet and (2) west side yard setback variance from 10 feet to 3 feet for a existing shed; located on the north side of East Highland Street,

approximately .1 mile east of the Virginia Street and East Highland Street intersection (BV2003-025).

District 4 - Commissioner Henley
Kathy Fall, Senior Planner

Kathy Fall stated that staff does not recommend the granting of the variance since it does not meet the criteria for the granting of a variance as stated in the Land Development Code (LDC) of Seminole County.

Donna Horowitz stated that the house had been built in 1975, and that a shed had stood on that same location since that time. This current shed is a new shed, put on the same spot.

Dr. Buchanan made a motion to approve the granting of both variances.

Mr. Pennington seconded the motion for both variances.

The motion was passed by unanimous consent.

After the last item on the agenda was heard, Mr. McDonald updated the Board members on the recent action of the BCC. The BCC reversed the decision of the BOA on the application on Howard Avenue variances.

Mr. Hattaway asked Karen Consalo for legal clarification on the matter of 2 adjacent lots that are non-conforming under current zoning which are owned by one individual. Policy says that the lots must be combined.

Karen Consalo, Assistant County Attorney, stated that she would look into the legal background on the combining of lots.

Members requested to consider the minutes for March at the next meeting.

Mr. Bushrui stated that this was the month to elect officers for the Board.

Mr. Bushrui nominated Mr. Hattaway to continue serving as Chairman.

Dr. Buchanan seconded the motion.

Mr. Pennington made a motion to close nominations.

Mr. Rozon seconded the motion.

Nominations were closed by unanimous consent.

The vote was 5 – 0 in favor of electing Mr. Hattaway Chairman.

Mr. Rozon nominated Mr. Bushrui to continue serving as Vice-Chairman.

Dr. Buchanan seconded the motions

The nominations were closed by unanimous action.

The vote was 5 – 0 to elect Mr. Bushrui Vice-Chairman of the Board.

There being no further business, the meeting adjourned at 10:50 P.M.